



PRESIDENTIAL AIRWAYS

P.O. Box 849 Moyock, N.C. 27958

DEPT OF TRANSPORTATION
DOCKETS

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U.S. Department of Transportation, Docket Operations
West Building Ground Floor, Room W12-140
1200 New Jersey Avenue, SE.
Washington, DC 20590

28 May 09

Subject: Petition for Exemption to 14 CFR Part 119.23/25

To Whom it May Concern:

Presidential Airways, Inc. (PAW) hereby petitions the Federal Aviation Administration (FAA) pursuant to Title 14 CFR 11.63 for an exemption from;

FAR 119.23, OPERATORS ENGAGED IN PASSENGER, CARGO OPERATIONS, OR BOTH WITH AIRPLANES WHEN COMMON CARRIAGE IS NOT INVOLVED, and to;

FAR 119.25, ROTORCRAFT OPERATIONS: DIRECT AIR CARRIERS AND COMMERCIAL OPERATORS,

to the extent necessary to permit PAW to carry out its contractual obligations with the United States Department of State (DoS) and the Department of Defense (DoD) which has contracted PAW to support diplomatic personnel and troop movements. PAW understands that the FAA is not currently manned in the overseas areas that we are contracted to provide normal oversight for Part 135 operations, but nonetheless believes the exemption sought would be in the best interest of the United States and would not adversely affect safety. All overseas contracts are exclusive use contracts to the United States Government.

PAW maintains an Air Carrier Certificate, P4YA652I, and FAA Operating Specifications (OPSPECS) under Title 14 of the Code of Federal Regulations (CFR), Part 135 ("Operating Requirements: Commuter and On Demand Operations and Rules Governing Persons on Board Such Aircraft"), which authorizes PAW to conduct commercial "On Demand" within the United States under Part 135. PAW, pursuant to contracts with the United States Government for exclusive use only, is currently operating in and around the countries of Afghanistan and Iraq, supporting Operations Enduring Freedom and Iraqi Freedom, Burkina Faso, West Africa, supporting Africa Command, and with shipboard-based helicopters in the Pacific Ocean supporting the Pacific Fleet. PAW has a contractual commitment to the United States military to maintain its aircraft and flight crews "in accordance with FAR 135." The foregoing obligations regarding Part 135 are delineated in PAW's contracts. Importantly, when PAW operates aircraft in a war zone pursuant to military Air Tasking Orders. PAW is not subject to FAA oversight in the

same manner as if PAW were conducting commercial "on demand" operations for private sector clients in the United States.

In order to fulfill its obligations to the United States military, the proposed exemption is in the public interest. Providing the safest means of transportation to United States Department of Defense and senior ranking Department of State officials helps advance United States interests in Afghanistan, Iraq and the Middle East. Although Presidential will not be in compliance with some part 135 rules for its operations, the level of safety and security that is provided by Presidential is the best that is presently commercially available. There is a US public interest in having United States Department of Defense, U.S. diplomats, and other dignitaries have the safest means of commercial transportation available today.

Currently, PAW has an approved Exemption, # 8692C, from FAR 119.25(b) which allows PAW to conduct helicopter passenger and cargo carrying operations for the Department of State in Iraq which is in the public interest and the safest means of transportation. This exemption has allowed PAW to conduct essential operations for personal protection and safety of the United States Ambassador and other diplomatic personnel in Iraq since October 2003.

PAW has been on contract and operating in Afghanistan since September 2004. The mission has always been a military mission. We transport United States military troops around the country of Afghanistan. We also carry military cargo of all types, from ammunition to food, water and medical supplies. We transport troops returning to the United States for emergencies from remote locations. We transport mail to locations where our troops have may not received mail in six months. Our flight crews and maintenance personnel are required to maintain security clearances because we courier classified documents and receive classified intelligence briefings. Our aircraft have been shot at on missions supporting our troops, although, thankfully, no one was injured and no serious damage has been inflicted on the aircraft as a result. The aircraft are required, by contract, to be equipped with military-grade radios.

All missions are listed on an Air Tasking Order (ATO), in the same manner as military flights and operate in airspace controlled by the military. Operational requirements such as; weather, threat, intelligence, destinations, departure times, the mix of cargo and/or troops on the aircraft are provided to our crews by the United States Department of Defense. Operations are conducted using a "Form 59", basically a tactical flight plan, in the same manner as the military. Presidential Airways pilots, like military pilots, retain and can exercise command authority to the extent necessary to turn down any mission based on safety or maintenance. In such a case, the mission still has to be completed, but can be accomplished at another day or time. All of this demonstrates that our operations in Iraq and Afghanistan are military missions which, if they were not being flown by PAW, would be flown by military aircraft and military crews.

Accordingly, recognizing the FAA's safety mission and authority, PAW hereby petitions, pursuant to 14 CFR 11.63, for an exemption from FAR Part 119.23/25 to the extent necessary to permit PAW to continue conducting operations for the United States Government per the paragraphs above. Said exemption as sought would be limited to

PAW operations which take place in airspace controlled by the military pursuant to the Air Tasking Orders.

As explained, the exemption PAW seeks: (a) is in the public interest; (b) will not reduce the level of safety that is provided by compliance with the affected sections; and (c) is based on the uniqueness of Presidential's mission. We are still required by contract to maintain the flight crews and aircraft maintenance to FAR 135 standards.

The following paragraphs (a) through (h) address the respective requirements of 14 CFR 11.81:

(a) Your name and mailing address and, if you wish, other contact information such as a fax number, telephone number, or e-mail address:

Richard J. Pere, Sr.
President
Presidential Airways, Inc.
P.O. Box 849
Moyock, NC 27958
(252) 435-0756
Richard.pere@presidentialairways.net

(b) The specific section or sections of 14 CFR from which you seek an exemption:

Sections 119.23 and 119.25 to the extent necessary.

(c) The extent of relief you seek, and the reason you seek the relief:

The relief sought is a conditional exemption from Section 119.23 and 119.25 to the extent necessary to allow PAW to carry out its contractual obligations with the United States Department of State (DoS) and the Department of Defense (DoD) which has contracted PAW to support diplomatic personnel and troop movements. All overseas contracts are exclusive use contracts to the United States Government.

(d) The reasons why granting your request would be in the public interest; that is, how it would benefit the public as a whole:

PAW crews are well trained and experienced in flight operations in these austere, hostile environments. We have been operational in these countries since 2003 and 2004. The Department of State and the Department of Defense have become dependent on our ability to react quickly to their mission requests, sometimes with as little as two (2) minutes notice. We have saved multiple lives. In Afghanistan, we have delivered cargo to troops that were cut off from support, running out of ammo, food and water. These short notice missions are military directed; and are required to react quickly for the protection of the troops.

(e) The reasons why granting the exemption would not adversely affect safety, or how the exemption would provide a level of safety at least equal to that provided by the rule from which you seek exemption.

PAW is not requesting a complete exemption from FAR 135, but only from operations being conducted pursuant to Military Air Tasking Orders in military controlled airspace. By contract with our Government Agencies, we are required to maintain the aircraft and flight crews to FAR Part 135 standards. This is not an issue of safety, but is an effort to recognize the unique nature of these operations taking place at the direction of the military, in military airspace, and pursuant to military orders. In order to carry out these missions successfully, it is incumbent on PAW to have a comprehensive and robust safety program. PAW has such a program.

- (f) A summary we can publish in the Federal Register, stating:**
(1) The rule from which you seek the exemption; and
(2) A brief description of the nature of the exemption you seek.

By letter dated 28 May 2009, Mr. Richard J. Pere, Sr., President of Presidential Airways, Inc. P.O. Box 849, Moyock, North Carolina 27958, (PAW) petitioned the Federal Aviation Administration (FAA) for an exemption from the requirements of Title 14 Code of Federal Regulations (CFR), FAR Part 119.23 and FAR Part 119.25, to the extent necessary to carry out PAW's contracts with the United States Government at our overseas locations. These contracts obligate PAW to transport Diplomatic personnel, Department of Defense troops, cargo and mail under the guidance of United States Government Agencies overseas, primarily Iraq and Afghanistan.

The Petitioner requests relief from the following regulations: FAR Part 119.23 and FAR Part 119.25, as necessary.

PAW cannot fully comply with FAR 135 in the current environment in Afghanistan or Iraq while supporting the United States Government and remaining responsive to the exigencies of war. PAW is seeking an exemption as necessary to transport persons, troops and cargo which fall under control authority of the Department of State or the Department of Defense.

- (g) Any additional information, views or arguments available to support your request:**

PAW has been successful in operating its aircraft in Iraq for over 5+ years due to the unique tactics, techniques and procedures (TTPs) it has developed. PAW continues to upgrade and change based on current intelligence sources in the locations which it operates, as well as from lessons learned from the U.S. Military. To stay out of harm's way, PAW flies varying routes, at low altitudes. PAW employees are required to hold a Secret Clearance, attend and pass high risk training (PT test, weapons training, combat medic training, threat training, etc.) prior to deploying. Any employees that are armed, receive those weapons issued to them by the U.S. Government.

PAW has operated in Afghanistan for 4+ years successfully. PAW has flown over 33,000 military sorties consisting of 27,907 flight hours, moving 14,589,311 pounds of cargo, 15,320,915 pounds of mail, and 137,149 troops. These numbers can only

be attained by professional flight crews and maintenance personnel. PAW accomplishes these numbers and continue to maintain safety as the highest priority.

Currently PAW aircraft and crews are maintained to Part 135 standards; however, they often operate under contract with the United States Government, by necessity, to a Part 91 requirement. As an example, PAW was instructed by the U.S. Military to remove "N" numbers from its aircraft in Iraq. All missions are listed on the Military Air Tasking Order (ATO) system. PAW operations in Afghanistan receive all missions from the ATO system. All pilots receive in-country training to include area orientation, special use airspace instruction (the U.S. Military does control the airspace), and continuing military operations briefings. All PAW employees carry a U.S. Government Identification Card. These contracts are unique U.S. Military missions and bear little resemblance to commercial aviation operations conducted under civilian regulations like Part 135.

(h) If you want to exercise the privileges of your exemption outside the United States, the reason why you need to do so.

See responses to section (a) through (g) above. PAW only needs this exemption for operations outside the United States. These are all U.S. Government contracts operating in U.S. controlled airspace.

Thank you for your prompt processing of this petition for exemption. Again, we reiterate that we understand that the FAA does not purport to require us to comply with FAR 135 in combat environments while supporting the United States Government, but FAA confirmation of that fact would be helpful to ensure that our operations remain responsive to the exigencies of war. Please contact the undersigned if you have any questions or concerns.

Contact information, 252-435-0756 or via email: Richard.pere@presidentialairways.net.

Thanks again for your continued support!

Sincerely,



Richard J. Pere, Sr.
President
Presidential Airways, Inc.